

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

WAYNE WALLACE, # 294475

Plaintiff,

CASE NO. 05-CV-70728

vs.

HON. DENISE PAGE HOOD
U.S. DISTRICT JUDGE

MICHAEL SODERGREN, et al.,

HON. STEVEN D. PEPE
U. S. MAGISTRATE JUDGE

Defendants.

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ORDER ACCEPTING REPORT AND RECOMMENDATION

This matter is before the Court on Magistrate Steven D. Pepe's Report and Recommendation dated January 18, 2006. To date, neither party has filed objections to this Report.

The Complaint named seven defendants. Defendants Sodergren and Michigan Department of Corrections were dismissed on May 10, 2005. Defendant Marcia Jenkinson was never properly served. The remaining Defendants, Lori Kopka, Darrell Brady, James Armstrong and Corrections Medical Services filed the instant motions to dismiss.

Magistrate Judge Pepe concluded that Plaintiff did not exhaust all administrative remedies before filing the section 1983 action, as required by the Prison Litigation Reform Act (PLRA). The Magistrate Judge recommended that this Court grant Defendants Kopka and Armstrong's Rule 12(b) Motion to Dismiss.

The Court has had an opportunity to review this matter and finds that the Magistrate Judge reached the correct conclusion for the proper reasons.

Accordingly,

IT IS SO ORDERED that the Report and Recommendation of Magistrate Judge Steven D. Pepe, dated January 18, 2006 is ACCEPTED and ADOPTED as this Court's findings and conclusions of law.

IT IS FURTHER ORDERED that Defendants Brady and Corrections Medical Services' Motion to Dismiss Under FRCP 12(b)(6) and 42 U.S.C. § 1997e [**Docket No. 12, filed July 15, 2005**] is GRANTED.

IT IS FURTHER ORDERED that Defendants Kopka and Armstrong's Rule 12(b) Motion to Dismiss [**Docket No. 14 Dated July 29, 2005**] is GRANTED.

IT IS FURTHER ORDERED that Defendant Marcia Jenkinson is DISMISSED from this action for failure to be properly served.

IT IS FURTHER ORDERED that this matter is DISMISSED without prejudice.

s/ DENISE PAGE HOOD
DENISE PAGE HOOD
United States District Judge

DATED: February 28, 2006

I hereby certify that a copy of the foregoing document was served upon counsel of record on February 28, 2006, by electronic and/or ordinary mail.

s/William F. Lewis
Case Manager